

**MINUTES OF THE
SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE
MT. CRESTED BUTTE WATER AND SANITATION DISTRICT
DECEMBER 16, 2020**

Special Meeting of the Mt. Crested Butte Water and Sanitation District (MCBWS) Board of Directors was held at 5:00 pm on Wednesday, **December 16, 2020**, via GoToMeeting at <https://www.gotomeet.me/MCBWaterSanitationDistrict>.

Members of the Board of Directors in attendance at the meeting were as follows:

Brian Brown Nicholas Kempin Carlos Velado Nancy Woolf JD Crichton

Also present were:

Mike Fabbre, District Manager	Delrena Sides, District Customer
Perry Solheim, Finance Manager	Frederick Hart, District Customer
Kyle Koelliker, Water Plant Supervisor	Harold Duble, District Customer
Bryan Burks, Wastewater Plant Supervisor	Janet Farmer, District Customer, Town Council Mayor
Kim Wrisley, Admin Assistant	Kathy Hooge, District Customer
Tracy Davenport, Admin Assistant	Lewis Abrams, District Customer
Marcus Lock, District's Attorney	Lindsey Oettel, District Customer
Cooper Best, JVA, District's Engineer	Michael Hart, District Customer
Jamie Watt, Hunter Ridge, LLC	Nancy Grindlay, District Customer
Norm Whitehead, Hunter Ridge, LLC Engineer	Patricia Mullen, District Customer
Michael Dawson, Hunter Ridge, LLC Attorney	Paul Hooge, District Customer
Bob Colvey, District Customer	Randy Sackett, District Customer
Cathie Pagano, Gunnison County Employee	Roger Cram, District Customer
Craig Caukin, District Customer	Roger Eaton, District Customer
Cyndee Bronars, District Customer	William Abbott, District Customer

1. Public Hearing Call to Order

- The public hearing to discuss the petition for inclusion into the District submitted by Hunter Ridge, LLC was called to order by Brown at 5:07 pm.

2. Public Hearing on the Petition for Inclusion into the District Submitted by Hunter Ridge, LLC

(Velado recused himself from the meeting due to a conflict of interest due to his employment with the Town of Mt. Crested Butte. Crichton stated that he will abstain from voting due to recent installment on Board).

- Hunter Ridge LLC, is proposing to include within the District a parcel of real property commonly referred to as 45 Hunter Hill Road which is a 10.458-acre tract with the legal parcel number of 3177-264-00.053.
- Adequate notice of the public hearing was performed by publishing in the Crested Butte News, and posting on the District website.

A. Applicant's Presentation:

- Watt is the managing member of Hunter Ridge, LLC., Whitehead is the engineer and Dawson is legal counsel.
- Hunter Ridge, LLC is asking to be included into the Water & Sanitation District.
- Dawson advised this is a petition for inclusion. District rule 6.3 states that it is the position of the District to allow inclusion of property into the District subject to requirements listed in the District's rules & regulations.
- 6.3.4 states that if the Petitioner has complied with all requirements of the Town of Mt. Crested Butte and has been or will be concurrently annexed to the Town of Mt. Crested Butte, Colorado then the District will include the petitioning property within the District. If, however, the petitioning property is not contiguous to or is not capable of being annexed to the Town of Mt. Crested Butte, the District may waive the requirements of Section 6.3.4 and consider the petitioning property for inclusion in the District.
- Property was denied by the Town of Mt. Crested Butte for annexation in 2018. Petitioner maintains that this meets the condition in Section 6.3.4 that the property is not capable of annexation.
- Proposal includes provision for cash-in-lieu payment for water rights.
- The applicant will also include improvements to the sewer line and manholes through the property & easement which add benefits to the District in the form of safety improvements for the workers & better access to a line that is currently placed in a difficult area for access.
- The property is currently undergoing the Gunnison County land use change process. The County process requires all infrastructure, including sewer & water connections to the District, will be bonded through the subdivision improvement agreement. The agreement requires cash and/or cash equivalence of 125% of construction costs as certified by the engineer and approved by the District. Bonding is required once the project goes through final plan with the County.

- Inclusion of this parcel will result in not having individual wells or individual septic systems in the sensitive areas of the property, which would result if inclusion is not approved.
- Per engineering analysis, there is water available and sewer system capacity to serve the inclusion.

B. District Staff Comments

- Fabbre submitted recommendations for the Hunter Ridge LLC Inclusion Application in the board packet.
- Lock advised that the recommendations have been provided to the board and made available to the public and the applicant's team as well.

C. Questions by the Board

- Kempin clarified that the District set a deadline for public comments and there were quite a few comments provided after the deadline that the District set. Would like this issue addressed.
- Fabbre advised the District set a deadline for what is included in the board packet. Subsequent to that date, the District received additional public comments addressed to the Board of Directors. In the interest of streamlining the Special Meeting, it was appropriate to publish the comments in advance. Otherwise, the comments would have had to be read into the record or the commentator would have had to be in attendance to present during the meeting. The District also wanted full transparency and the letters received after the deadline were requested to be part of the official public record.
- Lock advised there is no statute or rule regarding deadlines. He appreciates everyone's efforts.

D. Public Comments

- Public Comments provided by District customers generally noted the following:
 - Town of Mt. Crested Butte's denial of the development.
 - The three-mile plan still lists property as a parcel for future development.
 - Objection concerns have not been addressed by the developer.
 - Avalanche zone/steep embankment hazard area.
 - Mt. CB history of failed hillside projects.
 - Drainage issues.
 - Snow storage plans.
 - Road access and congestion issues.
 - Cash-in-lieu proposal inadequacy.
 - Request for comprehensive water supply & Geotech study.
 - Due process issues such as additional comments received after 12/1/20.
- District customers commended Fabbre and staff on health & safety of crew, operations & maintenance of the sewer line, and the difficult work provided by the staff.
- Lock advised that he disagrees with comments that the meeting has not been properly noticed or is not being properly conducted regarding accepting comments after 12/1/20.

The following District Customers spoke in opposition to the petition for inclusion:

- Randy Sackett
- William Abbott
- Patricia Mullin
- Nancy Grindlay
- Bob Colvey
- Roger Eaton
- Paul Hooge
- Kathy Hooge
- Michael Hart
- Lewis Abrams
- Delrena Sides

E. Applicant's Response to Public Comments

- The Town of Mt. Crested Butte had three choices: Approve, approve with conditions, or deny. The Town of Mt. Crested Butte denied the request, so he went to the County for the possibility of approval.
- Design was changed due to Gunnison County recommendations, changed density to blend in.
- Any engineering work required will be performed to the satisfaction of Gunnison County and other regulatory requirements.
- Roads, snow storage plans go through Gunnison County approval process.
- Hunter Ridge, LLC does have the right to connect into the sewer line in the easement.
- Bonding for infrastructure with Gunnison County will be for 125% of the cost.
- The District's policy is to allow inclusion and staff provided recommendation for approval.

F. District Staff Response to Public Comments

- Fabbre thankful for community involvement on a difficult decision.
- Fabbre holds great deal of respect for Town Council, the Mayor, and staff that works at the Town of Mt. Crested Butte. All work together very well.
- Existing pipeline on the property is over 25 years old. District is concerned about potential line failures on a line with no vehicular access and near impossible winter access. The inclusion of the project offers an efficient resolution to resolving issues with the current line.
- Financial benefits to the District, including cash-in-lieu, availability of service fees & property tax, all start on day one of approval. User fees could be ~\$20K or more per year at full build out depending on the timeframe of construction. Cannot estimate tap fees as it is calculated by square footage & fixtures, but an example of a large home could cost \$100K plus.
- The pipeline on the property has health & safety issues that the developer will fix at no cost to the District.
- The parcel is not 100% contiguous to the Town of Mt. Crested Butte, the South & West side abut Land Trust property.
- Most engineering issues will be addressed later. Current drawings are not 100% construction documents. It is not appropriate to have developer present 100% drawings, survey work, Geotech work at this point in the process. Plans are not approved at this point.
- Water restrictions are not affected by being included in the County. Upon inclusion, the District is the ruling body on water restrictions.
- Cash-in-lieu is paid up front, tap fees are paid in the future. Tap fees are to pay for infrastructure in the future.
- Acquiring 300-acre feet of storage in Long Lake will supply full buildout for the District. The Hunter Ridge inclusion will not materially affect water supply.
- Building the pipeline from Meridian Lake Park Reservoir to Long Lake is relatively straight forward.
- Requests for documents that have been made in this meeting are public record and can be supplied upon making requests to the District office.
- The sewer line problems have been under consideration since Fabbre started with the District. The project under consideration offers a solution to these issues where the developer will pay for the updates with minimal drawbacks for the District.
- The District staff recommendation is based off water and sanitation issues only. Other considerations are beyond the scope of District staff to consider.
- Lock commented with respect to process:
 - The meeting was properly noticed.
 - Public comments were properly accepted.
 - The meeting is being properly conducted.
 - With 6.3.4 of the rules, as the project currently sits, it is not capable of being annexed into the Town of Mt. Crested Butte and therefore the board has the option, but not the obligation, to waive the annexation requirement.
 - Cash-in-lieu, rule 6.8, the District has discretion to accept cash-in-lieu of water rights. The property is within the Upper Gunnison River Water Conservancy District's (UGRWCD) service area for the Meridian Lake augmentation plan. The amount estimated for cash-in-lieu is based upon UGRWCD estimates.
- Burks commented that the sewer line is near a dangerous avalanche zone. If rerouted, it would benefit the District and customers by reducing maintenance and repair costs as well as future capital costs for infrastructure replacement. He has major safety concerns for staff maintaining the line.
- Best commented the applicant is proposing to improve the sanitary sewer line which is a benefit to the District. Not all engineering details are resolved out at this stage of design but JVA will ensure that his team will work with the District to make sure the infrastructure is protected and improved.

G. Follow Up Questions by the Board

- Woolf asked about the three-mile plan as well as the letter from the mayor stating the property is capable of annexation even though the development was not acceptable. Lock advised it is difficult to draw a distinction between the property and the project when the Town of Mt Crested Butte ties subdivision approval to annexation and vice versa. Lock restated that the Board has the option, but not obligation, to waive the annexation requirement. Lock feels that the 6.3.4 capability standard is applicable to this project.

- Brown asked if the District was to allow inclusion, does this stop the Town of Mt. Crested Butte from annexing the property in the future. Lock answered no, that the developer can continue with the County but there is nothing in our inclusion decision that would preclude the developer going back to the Town of Mt. Crested Butte for annexation. Lock does not think it would be appropriate to grant inclusion with a condition of annexation because the District cannot determine the outcome of another annexation process. Lock stated that the District needs to decide whether it is willing to waive the annexation requirement. If the annexation requirement is waived then the District can consider whether to grant the petition for inclusion or not.
- Brown asked if the District were to not allow inclusion, is it possible for Watt to proceed and potentially put District assets at risk and, if so, what controls would the District have in regards to infrastructure assets. Fabbre advised that the existing easement documents would govern the District's position. The District is still responsible for maintaining the main line whether the property is included or not. The District cannot dictate what is built on the property only how the developer can install water/sewer infrastructure based off of our rules and regs. Lock commented that if they are not included in the District, the District has various tools available to protect its own infrastructure.
- Woolf asked about whether the curvilinear sewer line is an issue. Currently, District rules & regs do not allow it, but that the submitted plans are not 100% construction drawings.
- Best commented that JVA asked for explanation from the developer but thinks it can be designed without that feature.

3. Adjourn

MOTION by Woolf and seconded by Kempin to close the public hearing at 7:08 pm. Motion voted in favor.

1. Board Meeting Call to Order

- The special meeting of the Board of Directors was called to order by Brown at 7:09 pm

2. Board Deliberation and Potential Decision

- Brown advised it is now in order for the Board to discuss & deliberate on the petition for inclusion into the District submitted by Hunter Ridge, LLC.
- Lock advised that if the board is not willing to waive the annexation requirement, the issue is settled for now.

MOTION by Brown to waive the annexation requirement 6.3.4. Woolf seconded motion to allow for discussion.

- Kempin stated that while he feels the applicant should not be required to endlessly submit applications for annexation, in this case the applicant gave an inflexible proposal to the Town of Mt. Crested Butte and denied informational requests, thus he feels the property is capable of annexation. If the District does waive the requirement of annexation, then it can set a precedent for others to bypass the Town planning process.
- Brown called for a roll call vote on the pending motion to waive the annexation requirement 6.3.4. Kempin & Woolf oppose, Brown approves. Motion failed.
- Lock advised that since the Board has declined to waive the annexation requirement, a necessary prerequisite to considering inclusion of the property in the District, the issue of inclusion is settled.

3. Adjourn

MOTION by Kempin and seconded by Woolf to adjourn the special board meeting at 7:30 pm. Motion voted in favor.



Perry W. Solheim, Board Secretary